SINGLE BENCH

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IN THE HOUNRABLE CHHATTISGARH HIGH COURT OF JUDICATURE

AT, BILASPUR (C.G.)

Writ Petition No. 3262 /2005-

PETITIONER : Smt. Kamal Bai W/o Shri Nokhelal aged about 39 years, Residence of Village- Bahardih Tahsil Masturi Distt. Bilaspur (C.G.)

VERSUS

RESPONDENTS :

1. State of Chhattisgarh; through its, Principal Secratary, Pahchyat and Social Welfare Department State Secratariat, D.K.S. Bhawan Raipur, Distt. Raipur (C.G.)

2. Sub divisional Officer & Prescribed Officer, Under Panchayat Raj Adhiniyam Bilaspur, Distt. Bilaspur C.G.

3. Presiding Officer, Polling boath N.122 Through, Assistent election Officer, Tahsildar Masturi, Distt. Bilaspur c.G.

4. Amrit Lal, Elected Sarpanch Gram Panchayat, Bohardih.

5. Kumari Bhargav, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

6. Ganga Ram, Candidate for the Post of Sarpanch, Gram - Panchayat Bohardih.

7. Photo Lal, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

8. Jhumuk Lal, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

P.R. No. 1963/05
Presented by Shri ... Regd.
dated 30/11/05

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9. Bharat, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

10. Manoj, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

11. Raj Kumar, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

12. Smt. Radhika, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

13. Ram Kumar, Candidate for the post of Sarpanch, Gram Panchayat, Bohardih.

14. Ram Prasad, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

15. Lallu, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

16. Shiv Kumar, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

17. Santosh, Candidate for the post of Sarpanch Gram Panchayat Bohardih.

18. Santosh, Candidate for the post of Sarpanch, Gram Panchayat Bohardih.

19. Santosh Das, Candidate for the post of Sarpanch, Gram Panchayat, Bohardih.

(Respondent No.4 to 19 All are residence of Village, Bohardih Tahsil Masturi, Distt. Bilaspur C.G.)

WRIT PETITION UNDER ARTICLE 227/226 OF CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARY, MANDAMUS ETC. AND FOR APPROPRIATE, ORDER/ORDERS/ DIRECTIONS :-

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... W.P.3262/ सन् 2005

A.P.R.

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

27-7-2005

Mr. Mirza Kaiser Baeg, counsel for the petitioner.

Mr. Yashwant Singh Thakur, Govt Advocate for the State/ respondents No.1 & 2.

Heard both the counsel on admission.

By this writ petition under Article 226/227 of the Constitution of India, the petitioner has questioned the legality, propriety and correctness of order dated 9-3-2005 passed by the Specified Officer i.e. the Sub Divisional officer, Bilaspur, whereby the learned Specified Officer has rejected the election petition filed by the petitioner herein under Section 122 (1) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, on the ground that the petitioner has not served attested copies of the petition, documents and affidavit on the respondents, therefore, it is held that it is the non-compliance of sub-rule (2) of Rule 3 of the Chhattisgarh Panchayat (Election Petition Corrupt Practice and Disqualification of Membership) Rules, 1995, hence, the petition is liable to be dismissed as per the provisions of Rule 8 of the said Rules.

Learned counsel for the petitioner argued that the petitioner filed attested copies of all the documents and same were served on the respondent.

But, perusal of the impugned order shows that such an objection was not raised before the Sub Divisional Officer. Provisions of sub-rule (2) of Rule 3 of the Rules, 1995, prescribe that every election petition shall be

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ...WP.3262/... **सन्** **200** 5

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition. Rule 8 of the said Rules lays down that if the provisions of Rule 3 or Rule 4 or Rule 7 have not been complied with, the petition shall be dismissed by the Specified Officer provided that the petition shall not be dismissed under this Rule without giving opportunity of being heard. Perusal of the impugned order further shows that copy of the petition along with affidavit, which was served on the respondents, was not attested by the petitioner, therefore, the S.D.O. held that the provisions of sub-rule (2) of Rule 3 are mandatory and non-compliance of the same entails dismissal as per Rule 8 of the Rules, 1995.

Therefore, the order passed by the learned Specified Officer is in consonance with sub-rule (2) of Rule 3 and Rule 8 of the Rules, 1995, as such, I do not find any illegality and infirmity in the order impugned. In the circumstances, the petition is without any substance, same is liable to be dismissed and it is hereby dismissed, at the admission stage itself. No order as to costs.

Consequently, M.(W.)P.No.2721/2005 and I.A.No.6281/2005 stand disposed of.

Sd/-
L.C. Bhadoo
Judge

Soma

(पीछे देखिये)